

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2188.05
COMPLAINT INVESTIGATOR:	Joe Bear
DATE OF COMPLAINT:	October 26, 2004
DATE OF REPORT:	November 24, 2004
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	December 16, 2004

COMPLAINT ISSUES:

Whether the Union County/College Corner Joint School District and the East Central Indiana Special Services District violated:

511 IAC 7-27-5(a) and (b) by failing to include in the case conference committee (CCC) report and by failing to provide the parent with written notice of the refusal of services, including an explanation of reasons for the refusal, specifically the refusal to provide adapted physical education services;

511 IAC 7-25-5(b) by failing to take one of the following actions within ten business days of the School's receipt of a parent's request for an independent education evaluation (IEE):

- (1) Initiate a due process hearing to show its educational evaluation is appropriate;
- (2) Notify the parent in writing that the IEE will be at public expense;

511 IAC 7-21-2(a) by failing to employ or contract with personnel appropriately licensed to provide adapted physical education.

During the course of the investigation, the Complainants withdrew the second and third issues of the complaint. The first issue, concerning 511 IAC 7-27-5(a) and (b), is the only issue of the complaint.

FINDINGS OF FACT:

1. The Student has been identified as having autism spectrum disorder and has been determined eligible for special education and related services.
2. The Student moved in from another state at the beginning of the 2004-2005 school year. A case conference committee (CCC) meeting was held for the Student on August 24, 2004, in accordance with the Article 7 timeline. An individualized education program (IEP) was developed.
3. On October 14, 2004, the CCC reconvened. The Case Conference Report (CCR) documents that the School denied the request for the Student to receive adapted physical education. The CCR states that the "committee was not concerned about gross motor deficits. Did not feel there was an academic need." (Page 1 of CCR notes)
4. The CCR (Page 2 of Notes) summarizes oral reports from several participants: The physical education teacher said that the Student "caught on quickly to proper stance in throwing/catching football, doing well running, especially w/ encouragement; excellent on scissor jump." The

Student's teacher saw "no concerns" and said that the Student was "fine on playground." The occupational therapist recommended exercises to boost the Student's energy in the early morning and after lunch. The CCC reviewed an evaluation for adapted physical education that had been completed in the other state over one year before. In addition, the occupational therapist had earlier reported that the Student enjoys physical activity and has "good motor planning." (Page 1 of CCC notes from August 24, 2004, meeting)

5. The Complainant stopped the meeting, and stated an intent to initiate due process proceedings regarding the lack of adapted physical education. The Complainant received a copy of the Notice of Procedural Safeguards. The Program Coordinator followed up with an offer of mediation.

CONCLUSIONS:

1. Finding of Fact #3 indicates that the School described, in the October 14, 2004, CCR, its denial of the requested service, including the reasons for the determination. Finding of Fact #4 indicates that the School described, in the October 14, 2004, CCR, the reports used as a basis for the School's decision not to provide adapted physical education. Finding of Fact #5 indicates that School provided the Complainant with information regarding procedural safeguards. Taken together, Findings of Fact #2 through #5 indicate that the School provided the Complainant with written notice of the refusal, and an explanation of reasons for the refusal, to provide adapted physical education. Therefore, a violation of 511 IAC 7-27-5(a) and (b) is not found.

The Department of Education, Division of Exceptional Learners, requires no corrective action based on the Findings of Fact and Conclusions listed above.